

# **FAMILY CODE**

## **CHAPTER 888**

H. B. No. 53

Effective January 1, 1970

An Act adopting Title 1 of the Family Code, a substantive revision of the statutes relating to husband and wife—entering the marriage relationship; validity of marriage; dissolution of marriage; rights, duties, powers, and liabilities of spouses; and marital property; amending certain laws to conform to the new code, as follows: amending Article 495, Penal Code of Texas, 1925, relating to punishment for incest; amending Article 5460, Revised Civil Statutes of Texas, 1925, as amended, relating to the requirements for securing a lien on the homestead of a married person; amending Section 17A, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as amended (Rule 50b, Article 4477, Vernon's Texas Civil Statutes), relating to the record-keeping and information-providing function of the Bureau of Vital Statistics; adding an Article 3930a—1 to Title 61, Revised Civil Statutes of Texas, 1925, providing a fee for certain services rendered by county clerks and county recorders; repealing the statutes replaced by Title 1 of the Family Code; declaring the effect of conflicting laws passed at the same session; declaring the applicability of the Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes); providing for severability; providing a saving clause; providing an effective date; and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

Section 1. Title 1 of the Family Code is adopted to read as follows:

## **FAMILY CODE**

### **TITLE 1. HUSBAND AND WIFE**

#### **SUBTITLE A. THE MARRIAGE RELATIONSHIP**

#### **CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP**

##### **SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE**

###### **Section**

- 1.01. Marriage License.
- 1.02. Application for License.
- 1.03. Application Form.
- 1.04. Proof of Identity and Age.
- 1.05. Certain Information or Formalities may be Omitted.
- 1.06. Execution of Application.
- 1.07. Issuance of License.
- 1.08. Recording.
- 1.09. Violation by County Clerk.

[Sections 1.10–1.20 reserved for expansion]

**SUBCHAPTER B. MEDICAL EXAMINATION**

**Section**

- 1.21. Medical Examination Certificate Required.
- 1.22. Exemption Order.
- 1.23. Form and Content of Certificate.
- 1.24. Serologic Tests.
- 1.25. Tests to be Prescribed by Health Department.
- 1.26. Duties of Laboratory.
- 1.27. Content of Laboratory Statement.
- 1.28. Detailed Laboratory Report.
- 1.29. Public Laboratories to Conduct Tests Free of Charge.
- 1.30. List of Approved Private Laboratories.
- 1.31. Examination; Issuance of Certificate.
- 1.32. Content of Physician's Statement.
- 1.33. Physician.
- 1.34. Nonresident Applicants.
- 1.35. Reporting of Venereal Disease Cases.
- 1.36. Violation by County Clerk.
- 1.37. Giving False Information.

[Sections 1.38–1.50 reserved for expansion]

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- 1.52. Underage Applicant: Parental Consent.

[Sections 1.53–1.80 reserved for expansion]

**SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE**

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- 1.81. Expiration of License.
- 1.82. Ceremony.
- 1.83. Persons Authorized to Conduct Ceremony.
- 1.84. Return of License; Penalty for Violation.
- 1.85. Recording of License; Delivery to Licensees.

[Sections 1.86–1.90 reserved for expansion]

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**TITLE 1. HUSBAND AND WIFE****SUBTITLE A. THE MARRIAGE RELATIONSHIP****CHAPTER 1. ENTERING THE MARRIAGE RELATIONSHIP****SUBCHAPTER A. APPLICATION FOR MARRIAGE LICENSE****Section 1.01. Marriage License**

Persons desiring to enter into a ceremonial marriage shall obtain a marriage license from the county clerk of any county of this state.

**§ 1.02. Application for License**

Persons applying for a marriage license shall:

- (1) appear together or separately before the county clerk;
- (2) submit for each applicant:
  - (A) proof of identity and age as prescribed by Section 1.04 of this code;
  - (B) a medical examination certificate or an exemption order as prescribed by Subchapter B of this chapter;
  - (C) if applicable, the county judge's order prescribed by Section 1.05 of this code; and
  - (D) if required, the documents establishing parental consent, or a court order, as prescribed by Subchapter C of this chapter;
- (3) provide the information for which spaces are provided in the application for a marriage license; and
- (4) take the oath printed on the application and sign the application before the county clerk.

**§ 1.03. Application Form**

(a) The county clerk shall furnish the application form as prescribed by the Bureau of Vital Statistics of the State Department of Health.

(b) The application form shall contain:

- (1) a heading entitled "Application for Marriage License,  
\_\_\_\_\_ County, Texas";

(2) spaces for each applicant's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and race;

- (3) a space for indicating the document tendered by each applicant as proof of identity and age;
- (4) spaces for indicating whether each applicant has been divorced, and if so, whether the applicant has been divorced during the six-month period preceding the date of the application;
- (5) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE INFORMATION I HAVE GIVEN IN THIS APPLICATION IS CORRECT, THAT I AM NOT PRESENTLY MARRIED, AND THAT I AM NOT RELATED TO THE OTHER APPLICANT WITHIN THE DEGREES PROHIBITED BY LAW.";
- (6) spaces immediately below the printed oath for the applicants' signatures;
- (7) the jurat of the county clerk;
- (8) spaces for indicating the date of the marriage and the county in which it is performed; and
- (9) a space for the address to which the applicants desire the executed license to be mailed.

**§ 1.04. Proof of Identity and Age**

The county clerk shall require proof of identity and age of each applicant to be established by a certified copy of the applicant's birth certificate or by some certificate, license, or document issued by this state or another state, the United States, or a foreign government.

**§ 1.05. Certain Information or Formalities May be Omitted**

Any information pertaining to an applicant, other than the applicant's name, may be omitted from the application, and any formality required by Subchapters A, B, and D of this chapter may be waived on the county judge's written order, issued for good cause shown, and submitted to the county clerk at the time the application is made.

**§ 1.06. Execution of Application**

The county clerk shall:

- (1) determine that all necessary information (other than the date of the marriage ceremony, the county in which it is conducted, and the name of the person who performs the ceremony) is entered in the application and that all necessary documents are submitted to him;
- (2) administer the oath to each applicant;
- (3) have each applicant sign the application in his presence; and
- (4) execute his certificate on the application.

**§ 1.07. Issuance of License**

(a) On execution of the application, the county clerk shall prepare the license. On the reverse side of the license he shall enter the names of the licensees and, for each of them, the date of the medical examination or the fact that an exemption order was obtained.

(b) The county clerk shall not issue a license to the applicants if he knows any facts which would make the marriage void or voidable under this code.

(c) If it is revealed that either applicant has been divorced during the six-month period preceding the date of the application, the county clerk shall not issue the license unless it is shown that the subsequent marriage within the six-month period is permitted under Section 3.66 of this code.

**§ 1.08. Recording**

The county clerk shall record all licenses issued by him and shall record all documents submitted with applications for licenses or note a summary of them on the application.

**§ 1.09 Violation by County Clerk**

A county clerk or deputy county clerk who violates or fails to comply with any provision of this subchapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

[Sections 1.10–1.20 reserved for expansion]

**SUBCHAPTER B. MEDICAL EXAMINATION****§ 1.21. Medical Examination Certificate Required**

Except as provided by Section 1.22 of this code, the county clerk shall not issue a marriage license unless each applicant submits at the time of the application a medical examination certificate as prescribed by this code.

**§ 1.22. Exemption Order**

On the joint application of both applicants for a marriage license, the judge of any county or district court of the county in which the license is to be issued may issue a written order exempting the applicants from the medical examination requirements of this chapter if he is satisfied by proof that sufficient grounds exist for the exemption and that the exemption will not adversely affect the public health and welfare. The hearing on the application shall be private, and all records relating to the application shall be held in absolute confidence and shall not be opened to public inspection.

**§ 1.23. Form and Content of Certificate**

The medical examination certificate shall be made on a two-part form prescribed and supplied by the State Department of Health. One part of the form shall be for the laboratory statement and the other part shall be for the physician's statement.

**§ 1.24. Serologic Tests**

The first step in obtaining a medical examination certificate is to have a standard serologic test made by a state, county, or city laboratory, or a private laboratory approved by the State Department of Health. The applicant may apply to the laboratory in person for the test or may have a blood specimen taken by the physician for transmittal to the laboratory.

**§ 1.25. Tests to be Prescribed by Health Department**

The State Department of Health shall prescribe standard serologic tests for determining the existence of infectious syphilis in applicants for marriage licenses.

**§ 1.26. Duties of Laboratory**

The laboratory shall:

- (1) conduct a standard serologic test prescribed by the State Department of Health;

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(2) complete the laboratory statement and the detailed laboratory report on the prescribed forms and have them signed by the person in charge or a person authorized to enter the results of the test;

(3) transmit the laboratory statement and one copy of the detailed laboratory report to the designated physician; and

(4) transmit a copy of the detailed laboratory report to the State Department of Health.

## § 1.27. Content of Laboratory Statement

The laboratory statement shall specify the name and address of the person tested, the name and address of the physician to whom the report is sent, the name of the test, and the date of the test. This statement shall not include the result of the test.

## § 1.28. Detailed Laboratory Report

The detailed laboratory report shall include the result of the test. The copy submitted to the State Department of Health shall be held confidential and shall not be opened to public inspection. However, on the order of the court, the report is admissible as evidence in any judicial proceeding if it is relevant and material to any issue involved in the proceeding. The department may use these reports, without disclosing identities of persons, in compiling statistics for any purpose.

## § 1.29. Public Laboratories to Conduct Tests Free of Charge

All state, county, and city laboratories shall conduct the standard serologic tests and make the reports required by this chapter free of charge.

## § 1.30. List of Approved Private Laboratories

The State Department of Health shall furnish each county clerk a list of approved private laboratories. The department shall keep the list current with necessary additions and deletions.

## § 1.31. Examination; Issuance of Certificate

After receiving the laboratory report and examining the applicant, the physician may execute the physician's statement on the prescribed form and issue the completed medical examination certificate to the applicant. However, the physician shall not issue the certificate if he knows or has reason to believe that the applicant has any infectious condition of syphilis or other venereal disease.

## § 1.32. Content of Physician's Statement

The physician's statement must declare that on a specified date (which must be within the 21-day period immediately preceding the date the marriage license is applied for), the applicant was given a thorough examination for infectious venereal disease, including a standard serologic test, and that the results of the examination, test, and history showed that the applicant was free of any infectious condition of syphilis or other venereal disease.

## § 1.33. Physician

Except as provided by Section 1.34 of this code, the physician's statement must be executed by a physician licensed to practice medicine in this state.



**§ 1.34. Nonresident Applicants**

An applicant who resides in another state or territory may present a medical examination certificate executed by a physician who is licensed to practice medicine in that state or territory and by a laboratory approved by the official health agency of that state or territory, on the forms prescribed by the Texas State Department of Health under this chapter. If the standard serologic test was conducted by a private laboratory, the certificate must be accompanied by the affidavit of the director of the laboratory that the laboratory is certified by the state or territorial health agency.

**§ 1.35. Reporting of Venereal Disease Cases**

Nothing in this chapter affects any law, rule, or regulation relating to reporting of cases of venereal disease discovered by physicians in the course of their practice.

**§ 1.36. Violation by County Clerk**

A county clerk or deputy county clerk who violates or fails to comply with any provision of this subchapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

**§ 1.37. Giving False Information**

A person who knowingly gives false information in any medical examination certificate or detailed laboratory report is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

[Sections 1.38–1.50 reserved for expansion]

**SUBCHAPTER C. UNDERAGE APPLICANTS****§ 1.51. Age Requirements: General Rules**

(a) A male under 16 years of age may not marry. A female under 14 years of age may not marry.

(b) Except with parental consent as prescribed by Section 1.52 of this code, the county clerk shall not issue a marriage license if the male applicant is under 19 years of age or if the female applicant is under 18 years of age.

**§ 1.52. Underage Applicant: Parental Consent**

(a) If the male applicant is 16 years of age or older but under 19 years of age, or if the female applicant is 14 years of age or older but under 18 years of age, the county clerk shall issue the license if parental consent is given as prescribed by this section.

(b) Parental consent must be evidenced by a written declaration on a form supplied by the county clerk in which the person consents to the marriage and swears that he or she is a natural guardian of the person (when there is no judicially designated custodian or guardian of the person of the applicant), an actual custodian of the person (when there is no natural guardian of the person or judicially designated custodian or guardian of the person of the applicant), or a judicially designated cus-

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todian or guardian of the person (whether an individual, authorized agency, or court) of the applicant.

(c) Except as otherwise provided by this section, consent must be acknowledged before the county clerk at the time the application is made for the marriage license.

(d) If the consenting parent or guardian resides in another state or territory of the United States, the consent may be acknowledged before an officer authorized to issue marriage licenses in that state or territory.

(e) If the consenting parent or guardian is unable to be present because of illness or incapacity, the consent may be acknowledged before any officer authorized to take acknowledgments; but it must be accompanied by a physician's affidavit stating that the parent or guardian is unable to be present because of illness or incapacity.

[Sections 1.53–1.80 reserved for expansion]

**SUBCHAPTER D. CEREMONY AND RETURN OF LICENSE**

**§ 1.81. Expiration of License**

(a) Unless both applicants were exempted by court order from the medical examination requirements of this chapter, the marriage license expires at the end of the 21-day period immediately following the date of the medical examinations (or the earlier of the two examinations if they were conducted on different days), if the marriage ceremony has not been conducted within that period. The person who is to conduct the marriage ceremony shall determine this information from the county clerk's endorsement on the license.

(b) A person who conducts a marriage ceremony after the license has expired is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

**§ 1.82. Ceremony**

On receiving possession of the unexpired marriage license, any authorized person may conduct the marriage ceremony.

**§ 1.83. Persons Authorized to Conduct Ceremony**

The following persons are authorized to conduct marriage ceremonies:

- (1) licensed or ordained Christian ministers and priests;
- (2) Jewish rabbis;
- (3) persons who are officers of religious organizations and who are duly authorized by the organization to conduct marriage ceremonies; and
- (4) justices of the supreme court, judges of the court of criminal appeals, justices of the courts of civil appeals, judges of the district, county, and probate courts, judges of the county courts at law, courts of domestic relations and juvenile courts, justices of the peace, and judges of the federal courts of this state.

**§ 1.84. Return of License; Penalty for Violation**

(a) The person who conducts the ceremony shall enter on the license the date and county in which it was performed and his or her name as the person who performed the ceremony, subscribe it and return the li-

cense to the county clerk who issued it within 30 days after the ceremony is conducted.

(b) A person who violates or fails to comply with any provision of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$200 nor more than \$500.

#### § 1.85. Recording of License; Delivery to Licensees

The county clerk shall record the returned license and shall mail the license to the address indicated in the application. On the application form the county clerk shall record the date of the marriage ceremony, the county in which it was conducted, and the name of the person who conducted the ceremony.

[Sections 1.86–1.90 reserved for expansion]

### SUBCHAPTER E. MARRIAGE WITHOUT FORMALITIES

#### § 1.91. Proof of Certain Informal Marriages

(a) In any judicial, administrative, or other proceeding, the marriage of a man and woman may be proved by evidence that:

- (1) a declaration of their marriage has been executed under Section 1.92 of this code; or
- (2) they agreed to be married, and after the agreement they lived together in this state as husband and wife and there represented to others that they were married.

(b) In any proceeding in which a marriage is to be proved under Subsection (a)(2) of this section, the agreement of the parties to marry may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married.

#### § 1.92. Declaration and Registration

(a) A declaration of informal marriage shall be executed on a form prescribed by the Bureau of Vital Statistics of the State Department of Health and provided by the county clerk. Each party to the declaration shall provide the information for which spaces are provided in the form.

(b) The declaration form shall contain:

(1) a heading entitled "Declaration and Registration of Informal Marriage, \_\_\_\_\_ County, Texas";

(2) spaces for each party's full name (including the woman's maiden surname), address, date of birth, place of birth (including city, county, and state), and race;

(3) a printed declaration reading: "We, the undersigned declare that we are married to each other by virtue of the following facts:

(date)

On or about \_\_\_\_\_, we agreed to be married, and after that date we lived together in this state as husband and wife and in this state represented to others that we were married.";

(4) a printed oath reading: "I SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE DECLARATION IS TRUE, THAT THE INFORMATION I HAVE GIVEN HEREIN IS CORRECT, THAT I AM NOT PRESENTLY MARRIED TO ANY OTHER PERSON, AND THAT I AM NOT RELATED TO THE OTHER PARTY TO THE DECLARATION WITH THE DEGREES PROHIBITED BY LAW.";

- (5) spaces immediately below the printed oath for the parties' signatures; and
- (6) a certificate of the county clerk that the applicant made the oath and place and date it was made.
- (c) The county clerk shall:
  - (1) determine that all necessary information is entered on the form;
  - (2) administer the oath to each party;
  - (3) have each party sign the declaration in his presence; and
  - (4) execute his certificate on the declaration.
- (d) The county clerk shall record the declaration, deliver the original of the declaration to the parties, and transmit a copy to the Bureau of Vital Statistics.
- (e) A declaration executed under this section is prima facie evidence of the marriage.

## CHAPTER 2. VALIDITY OF MARRIAGE

### SUBCHAPTER A. GENERAL PROVISIONS

#### Section 2.01. State Policy

In order to promote the public health and welfare and to provide the necessary records, this code prescribes detailed and specific rules to be followed in establishing the marriage relationship. However, in order to provide stability for those entering into the marriage relationship in good faith and to provide legitimacy and security for the children of the relationship, it is the policy of this state to preserve and uphold each marriage against claims of invalidity unless strong reasons exist for holding it void or voidable. Therefore, every marriage entered into in this state is considered valid unless it is expressly made void by this chapter or unless it is expressly made voidable by this chapter and is annulled as provided by this chapter. When two or more marriages of a person to different spouses are alleged, the most recent marriage is presumed to be valid as against each marriage that precedes it until one who asserts the validity of a prior marriage proves its validity.

#### § 2.02. Fraud, Mistake, or Illegality in Obtaining License

Except as otherwise provided by this chapter, the validity of a marriage is not affected by any fraud, mistake, or illegality that occurred in obtaining the marriage license.

#### § 2.03. Ceremony Conducted by Unauthorized Person

The validity of a marriage is not affected by any lack of authority of the person conducting the marriage ceremony if there was a reasonable appearance of authority by that person and at least one party to the marriage participated in the ceremony in good faith and that party treats the marriage as valid.

[Sections 2.04–2.20 reserved for expansion]

**SUBCHAPTER B. VOID MARRIAGES****§ 2.21. Consanguinity**

(a) A person may not marry:

(1) an ancestor or descendant, by blood or adoption;

(2) a brother or sister, of the whole or half blood or by adoption;

or

(3) a parent's brother or sister, of the whole or half blood.

(b) A marriage entered into in violation of this section is void.

**§ 2.22. Marriage During Existence of Prior Marriage**

A marriage is void if either party was previously married and the prior marriage is not dissolved. However, the marriage becomes valid when the prior marriage is dissolved if since that time the parties have lived together as husband and wife and represented themselves to others as being married.

**§ 2.23. Certain Void Marriages Validated**

Except for marriages that would have been void under Section 2.21 of this code, all marriages that were entered into before January 1, 1970, in violation of the prohibitions of Article 496, Penal Code of Texas, 1925, are validated from the beginning if the parties continued until January 1, 1970, to live together as husband and wife and to represent themselves to others as being married.

**§ 2.24. Suit to Declare Marriage Void**

(a) Either party to a marriage made void by this subchapter may sue to have the marriage declared void, or the marriage may be declared void in any collateral proceeding.

(b) A suit to have a marriage declared void may be maintained in this state only if the purported marriage was contracted in this state or if either party is domiciled in this state.

(c) A suit to have a marriage declared void is a suit in rem, affecting the status of the parties to the purported marriage. Process shall be served as in a suit for divorce.

[Sections 2.25–2.40 reserved for expansion]

**SUBCHAPTER C. VOIDABLE MARRIAGES****§ 2.41. Underage**

(a) The marriage of a male 16 years of age or older but under 19 years of age, or a female 14 years of age or older but under 18 years of age, without parental consent as provided by Section 1.52 of this code, is voidable and subject to annulment at the discretion of the court on the petition of a next friend for the benefit of the underage party, or on the petition of the parent or the guardian of the person of the underage party. However, a suit may not be brought under this subsection more than 90 days after the date of the marriage.

(b) In exercising its discretion under this section, the court shall consider all pertinent facts concerning the welfare and best interests of both parties to the marriage, including whether or not the woman is pregnant.

§ 2.42

§ 2.42. Under Influence of Alcohol or Narcotics

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) at the time of the marriage the petitioner was under the influence of alcoholic beverages or narcotics and as a result did not have the capacity to consent to the marriage; and

(2) the petitioner has not voluntarily cohabited with the other party to the marriage since the effects of the alcoholic beverages or narcotics ended.

§ 2.43. Impotency

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) either party, for physical or mental reasons, was permanently impotent at the time of the marriage;

(2) the petitioner did not know of the impotency at the time of the marriage; and

(3) the petitioner has not voluntarily cohabited with the other party since learning of the impotency.

§ 2.44. Fraud, Duress, Force

On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) the other party used fraud, duress, or force to induce the petitioner to enter into the marriage; and

(2) the petitioner has not voluntarily cohabited with the other party since learning of the fraud or since being released from the duress or force.

§ 2.45. Mental Incompetency

(a) On the suit of a party to a marriage, or on the suit of the party's guardian or next friend (if the court finds it to be in his best interest to be represented by a guardian or next friend), the marriage is voidable and subject to annulment if:

(1) at the time of the marriage, as a result of a mental disease or defect, the petitioner did not have the mental competency to consent to marriage or to understand the nature of the marriage ceremony; and

(2) since the marriage ceremony, the petitioner has not voluntarily cohabited with the other party during any period when the petitioner possessed the mental competency to recognize the marriage relationship.

(b) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) at the time of the marriage, as a result of a mental disease or defect, the other party did not have the mental competency to consent to marriage or to understand the nature of the marriage ceremony;

(2) at the time of the marriage, the petitioner neither knew nor reasonably should have known of the mental disease or defect; and

(3) since the petitioner discovered or reasonably should have discovered the mental disease or defect, the petitioner has not voluntarily cohabited with the other party.

**§ 2.46. Concealed Divorce**

(a) On the suit of a party to a marriage, the marriage is voidable and subject to annulment if:

(1) the other party was divorced from a third party within the six-month period preceding the day of the marriage ceremony, and the prohibition against marrying again within the six-month period was not waived under Section 3.66 of this code;

(2) at the time of the marriage ceremony, the petitioner did not know, and a reasonably prudent person would not have known, of the divorce; and

(3) since the petitioner discovered, or a reasonably prudent person would have discovered, the fact of the divorce, the petitioner has not voluntarily cohabited with the other party.

(b) A suit may not be brought under this section more than one year after the date of the marriage.

**§ 2.47. Death of Party to Voidable Marriage**

A marriage voidable under this subchapter is not subject to challenge in any proceeding instituted after the death of either party.

**CHAPTER 3. DISSOLUTION OF MARRIAGE****SUBCHAPTER A. GROUNDS FOR DIVORCE; DEFENSES****Section 3.01. Insupportability**

On the petition of either party to a marriage, a divorce may be decreed without regard to fault if the marriage has become insupportable because of discord or conflict of personalities that destroys the legitimate ends of the marriage relationship and prevents any reasonable expectation of reconciliation.

**§ 3.02. Cruelty**

A divorce may be decreed in favor of one spouse if the other spouse is guilty of cruel treatment toward the complaining spouse of a nature that renders further living together insupportable.

**§ 3.03. Adultery**

A divorce may be decreed in favor of one spouse if the other spouse has committed adultery.

**§ 3.04. Conviction of Felony**

(a) A divorce may be decreed in favor of one spouse if since the marriage the other spouse:

(1) has been convicted of a felony;

(2) has been imprisoned for at least one year in the state penitentiary, a federal penitentiary, or the penitentiary of another state; and

(3) has not been pardoned.

(b) A divorce may not be decreed under this section against a spouse who was convicted on the testimony of the other spouse.

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**§ 3.05**

**§ 3.05. Abandonment**

A divorce may be decreed in favor of one spouse if the other spouse left the complaining spouse with the intention of abandonment and remained away for at least one year.

**§ 3.06. Living Apart**

A divorce may be decreed in favor of either spouse if the spouses have lived apart without cohabitation for at least three years.

**§ 3.07. Confinement in Mental Hospital**

A divorce may be decreed in favor of one spouse if at the time the suit is filed:

(1) the other spouse has been confined in a mental hospital, a state mental hospital, or private mental hospital, as defined in Section 4, Texas Mental Health Code, as amended (Article 5547—4, Vernon's Texas Civil Statutes), in this state or another state for at least three years; and

(2) it appears that the spouse's mental disorder is of such a degree and nature that he is not likely to adjust, or that if he adjusts it is probable that he will suffer a relapse.

**§ 3.08. Defenses**

(a) The defense of recrimination is abolished.

(b) Condonation, if proved, is a valid defense only if it is also proved that there is a reasonable expectation of reconciliation.

[Sections 3.09–3.20 reserved for expansion]

**SUBCHAPTER B. JURISDICTION AND VENUE;  
RESIDENCE QUALIFICATIONS**

**§ 3.21. Residence—General Rule**

No suit for divorce shall be maintained unless at the time the suit is filed the petitioner has been a domiciliary of this state for the preceding 12-month period and a resident of the county in which the suit is filed for the preceding six-month period.

**§ 3.22. Resident with Out-of-State Military Service**

A resident who has been absent from this state for more than six months in the military, naval, or other service of the United States or of this state may sue for divorce in the county where he resided before entering the service.

**§ 3.23. Military Personnel not Previously Residents**

A person not previously a resident of this state who is serving in the armed forces of the United States and has been stationed at one or more military installations in this state for at least the last 12 months and at one or more military installations in a county of this state for at least the last six months is considered to have been a domiciliary of this state and a resident of the county for those periods for the purpose of bringing suit for divorce or annulment or to declare a marriage void.



**§ 3.24. Suit by Nonresident Spouse**

If one spouse has been a domiciliary of this state for at least the last 12 months, a spouse domiciled in another jurisdiction may sue for divorce in the county where the domiciled spouse is domiciled at the time the petition is filed.

**§ 3.25. Annulment Suit**

(a) A suit for annulment of a marriage may be maintained in this state only if the parties were married in this state or if either party is domiciled in this state.

(b) A suit for annulment of a marriage is a suit in rem, affecting the status of the parties to the marriage. Process shall be served as in a suit for divorce.

[Sections 3.26–3.50 reserved for expansion]

**SUBCHAPTER C. SUIT****§ 3.51. Caption**

Pleadings in a divorce or annulment suit shall be entitled, "In the Matter of the Marriage of \_\_\_\_\_ and \_\_\_\_\_."

**§ 3.52. Pleadings; Statement of Facts**

(a) Any pleading praying for a divorce or annulment shall allege the grounds relied on as nearly as possible in the language of the statute and without a detailed statement of the facts.

(b) The opposing party shall be furnished on request a separate statement of the facts relied on to support a decree. Each fact alleged in the statement shall be considered as denied by the opposing party unless expressly admitted.

(c) A copy of the statement shall be furnished to the judge but shall not become a part of the record of the case. However, if the court's judgment is appealed on any ground relating to an allegation in the statement, then the statement shall be included in the record on appeal.

**§ 3.53. Answer**

In a suit for divorce or annulment, the defendant need not answer upon oath, and the petition shall not be taken as confessed for want of an answer.

**§ 3.54. Counseling**

(a) After a petition for divorce is filed, the court may, in its discretion, direct the parties to counsel with a person or persons named by the court, who shall submit a written report to the court before the hearing on the petition.

(b) In his report, the counselor shall give only his opinion as to whether there exists a reasonable expectation of reconciliation of the parties, and if so, whether further counseling would be beneficial. The sole purpose of the report is to aid the court in determining whether the suit for divorce should be continued pending further counseling, and the report shall not be admitted as evidence in the suit. Copies of the report shall be furnished to the parties.

## § 3.54

(c) If the court is of the opinion that there exists a reasonable expectation of the parties' reconciliation, the court may by written order continue the proceedings and direct the parties to any person or persons named by the court for further counseling for a period of time fixed by the court not to exceed 60 days, subject to any terms, conditions, and limitations the court deems desirable. The court shall consider the circumstances of the parties, including the needs of the parties' family, and the availability of counseling services, in making its order. At the expiration of the period of time specified by the court, the counselor to whom the parties were directed shall report to the court whether the parties have complied with the court's order. Thereafter, the court shall proceed as in divorce suits generally.

(d) No person who has counseled parties to a suit for divorce under this section is competent to testify in any action involving the parties or their children.

(e) The expenses of counseling may be taxed as costs against either or both parties.

**§ 3.55. Child Custody and Support**

Until Title 2 of this code is enacted and takes effect, nothing in this code affects the existing statutes relating to the awarding of custody and support of children in a divorce suit.

**§ 3.56. Inventory and Appraisement**

At any time during a suit for divorce or annulment either spouse may, for the preservation of his or her rights, require an inventory and appraisal of all property in the possession of the other spouse, and may obtain an injunction restraining the other spouse from disposing of any of the property in any manner.

**§ 3.57. Transfers and Debts Pending Decree**

After a petition for divorce or annulment is filed and until a final decree is entered

(1) a transfer of real or personal community property or

(2) a debt incurred which would subject community property to liability by either spouse is void with respect to the other spouse if the transfer was made or the debt incurred with the intent to injure the rights of the other spouse. A transfer is not void if the person dealing with the transferor or debtor spouse did not have notice of the intent to injure the rights of the other spouse.

**§ 3.58. Temporary Orders**

After a petition for divorce or annulment is filed, the court or judge may make temporary orders respecting the property and parties as deemed necessary and equitable.

**§ 3.59. Temporary Support**

After a petition for divorce or annulment is filed, the judge, after due notice may order payments for the support of the wife, or for the support of the husband if he is unable to support himself, until a final decree is entered.

**§ 3.60. Waiting Period**

A divorce shall not be granted until at least 60 days have elapsed since the day the suit was filed. However, a decree entered in violation of this section is not subject to collateral attack.

**§ 3.61. Jury**

Either party may demand a jury trial.

**§ 3.62. Testimony of Husband or Wife**

In all such suits and proceedings the husband and wife shall be competent witnesses for and against each other, but neither party shall be compelled to testify as to any matter that will criminate himself or herself; and where the husband or wife testifies, the court or jury trying the case shall determine the credibility of such witness and the weight to be given such testimony.

**§ 3.63. Division of Property**

In a decree of divorce or annulment the court shall order a division of the estate of the parties in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage.

**§ 3.64. Decree**

The court shall base its decree for divorce or annulment on full and satisfactory evidence.

**§ 3.65. Costs**

In a divorce or annulment suit, the court may award costs to either party as it deems reasonable. However, costs may not be adjudged against a party against whom a divorce is granted under Section 3.07 of this code.

**§ 3.66. Remarriage**

Neither party to a divorce may marry a third party for a period of six months immediately following the date the divorce is decreed, but the parties divorced may marry each other at any time. The court granting the divorce, for good cause shown, may at the time of the divorce decree or thereafter waive the prohibition of this section as to either or both parties.

## **CHAPTER 4. RIGHTS, DUTIES, POWERS, AND LIABILITIES OF SPOUSES**

**Section 4.01. Persons Married Elsewhere**

The law of this state applies to persons married elsewhere who are domiciled in this state.

**§ 4.02. Duty to Support**

Each spouse has the duty to support his or her minor children. The husband has the duty to support the wife, and the wife has the duty to support the husband when he is unable to support himself. A spouse

**§ 4.02**

who fails to discharge a duty of support is liable to any person who provides necessities to those to whom support is owed.

**§ 4.03. Capacity of Spouses**

Except as expressly provided by statute or by the constitution, every person who has been married in accordance with the law of this state, regardless of age, has the power and capacity of an adult, including the capacity to contract.

**§ 4.04. Joinder in Civil Suits**

(a) A spouse may sue and be sued without the joinder of the other spouse.

(b) When claims or liabilities are joint and several, the spouses may be joined under the rules relating to joinder of parties generally.

**SUBTITLE B. PROPERTY RIGHTS AND  
LIABILITIES**

**CHAPTER 5. MARITAL PROPERTY**

**SUBCHAPTER A. SEPARATE AND COMMUNITY PROPERTY**

**Section 5.01. Marital Property Characterized**

(a) A spouse's separate property consists of:

- (1) the property owned or claimed by the spouse before marriage;
- (2) the property acquired by the spouse during marriage by gift, devise, or descent; and
- (3) the recovery for personal injuries sustained by the spouse during marriage, except any recovery for loss of earning capacity during marriage.

(b) Community property consists of the property, other than separate property, acquired by either spouse during marriage.

**§ 5.02. Presumption**

Property possessed by either spouse during or on dissolution of marriage is presumed to be community property.

**§ 5.03. Recordation of Separate Property**

A subscribed and acknowledged schedule of a spouse's separate property may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property is located. As to real property, a schedule of a spouse's separate property is void as against a good faith purchaser for value or a creditor without notice unless the instrument is acknowledged and recorded in the county in which the real property is located.

[Sections 5.04–5.20 reserved for expansion]

**SUBCHAPTER B. MANAGEMENT, CONTROL AND  
DISPOSITION OF MARITAL PROPERTY**

**§ 5.21. Separate Property**

Each spouse has the sole management, control, and disposition of his or her separate property.

**§ 5.22. Community Property: General Rules**

(a) During marriage, each spouse has the sole management, control, and disposition of the community property that he or she would have owned if single, including but not limited to:

- (1) personal earnings;
- (2) revenue from separate property;
- (3) recoveries for personal injuries; and
- (4) the increase and mutations of, and the revenue from, all property subject to his or her sole management, control, and disposition.

(b) If community property subject to the sole management, control, and disposition of one spouse is mixed or combined with community property subject to the sole management, control, and disposition of the other spouse, then the mixed or combined community property is subject to the joint management, control, and disposition of the spouses, unless the spouses provide otherwise by power of attorney or other agreement in writing.

(c) Except as provided in Subsection (a) of this section, the community property is subject to the joint management, control, and disposition of the husband and wife, unless the spouses provide otherwise by power of attorney or other agreement in writing.

**§ 5.23. Earnings of Child**

The earnings of an unemancipated minor are subject to the management, control, and disposition of the parent or parents having custody of the minor.

**§ 5.24. Presumption**

(a) During marriage, property is presumed to be subject to the sole management, control, and disposition of a spouse if it is held in his or her name, as shown by muniment, contract, deposit of funds, or other evidence of ownership, or if it is in his or her possession and is not subject to such evidence of ownership.

(b) A third person dealing with a spouse is entitled to rely (as against the other spouse or anyone claiming from that spouse) on that spouse's authority to deal with the property if:

- (1) the property is presumed to be subject to the sole management, control, and disposition of the spouse; and
- (2) the person dealing with the spouse:
  - (A) is not a party to a fraud upon the other spouse or another person; and
  - (B) does not have notice of the spouse's lack of authority.

(c) As to personal property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this

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code, or a partition or exchange agreement under Section 5.42 of this code, shall not be deemed constructive notice of the schedule, order, marital property agreement, or partition or exchange agreement for the purposes of Subsection (b)(2)(B) of this section. As to real property, recording of a schedule of separate property under Section 5.03 of this code, or an order under Section 5.25 of this code, or a marital property agreement under Section 5.41 of this code, or a partition or exchange agreement under Section 5.42 of this code, in the deed records of the county in which the real property is located is constructive notice for the purposes of Subsection (b)(2)(B) of this section.

## § 5.25. Unusual Circumstances

(a) If (1) a spouse is unable to manage, control, or dispose of the community property subject to his or her sole or joint management, control, and disposition, (2) a spouse disappears and his or her location remains unknown to the other spouse, (3) a spouse permanently abandons the other, or (4) the spouses are permanently separated, then not less than 60 days thereafter the capable spouse, or the remaining spouse, or the abandoned spouse, or either spouse in the case of permanent separation, may file a sworn petition stating the facts that make it desirable for the petitioning spouse to manage, control, and dispose of community property (described or defined in the petition) that would otherwise be subject to the sole or joint management, control, and disposition of the other.

(b) The petition shall be filed in a district court of the county in which the petitioning spouse resided at the time the incapacity or separation began, or the abandonment or disappearance occurred. If both spouses are nonresidents of the state at that time, the petition shall be filed in the district court of any county in which any part of the described or defined community property is located.

(c) A notice stating that the petition has been filed and specifying the date of the hearing, accompanied by a copy of the petition, shall be issued and served on the respondent spouse as in other cases.

(d) If the residence of the respondent is unknown, notice shall be published in a newspaper of general circulation published in the county in which the petition was filed. If that county has no newspaper of general circulation, then notice shall be published in a newspaper of general circulation in an adjacent county or in the nearest county in which a newspaper of general circulation is published. The notice shall be published once a week for two consecutive weeks before the hearing, but the first publication shall not be less than 20 days before the date set for the hearing.

(e) After hearing the evidence, the court, on terms it deems just and equitable, shall enter an order describing or defining the community property at issue that will be subject to the management, control, and disposition of each spouse during marriage.

(f) The jurisdiction of the court is continuing, and on motion of either spouse, after notice has been given in the same manner that notice is given under Subsection (c) or (d) of this section, the court shall amend or vacate the original order if:

- (1) the incapable spouse's capacity is restored;
- (2) the spouse who disappeared reappears; or
- (3) the abandonment or permanent separation ends.

(g) An order authorized by Subsection (e) of this section affecting real property is void as against a good faith purchaser for value or

against a creditor without notice unless the order is recorded in the deed records of the county in which the real property is located.

(h) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

(i) This section is cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

[Sections 5.26–5.40 reserved for expansion]

### SUBCHAPTER C. PROPERTY AGREEMENTS

#### § 5.41. Agreement in Contemplation of Marriage

(a) Before marriage, persons intending to marry may enter into a marital property agreement as they may desire.

(b) The agreement must be in writing and subscribed by all parties.

(c) A minor capable of marrying but not otherwise capable of entering into a binding agreement may enter into a marital property agreement with the subscribed, written consent of the guardian of the minor's estate and with the approval of the probate court after the application, notice, and hearing required in the Probate Code for the sale of a minor's real estate.

(d) A marital property agreement does not prejudice the rights of preexisting creditors.

(e) A marital property agreement may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected or to be affected is located. As to real property, a marital property agreement is void as against a good faith purchaser for value or a creditor without notice unless the instrument is acknowledged and recorded in the county in which the real property is located.

#### § 5.42. Partition or Exchange of Community Property

(a) At any time, the spouses may partition between themselves, in severalty or in equal undivided interests, all or any part of their community property. They may exchange between themselves the interest of one spouse in any community property for the interest of the other spouse in other community property. A partition or exchange must be in writing and subscribed by both parties.

(b) Subject to the rules stated in Subsections (c) and (d) of this section, property or a property interest transferred to a spouse under a partition or exchange becomes his or her separate property.

(c) A partition or exchange does not prejudice the rights of preexisting creditors.

(d) A partition or exchange agreement may be recorded in the deed records of the county in which the parties, or one of them, reside and in the county or counties in which the real property affected is located. As to real property, a partition or exchange agreement is void as against a good faith purchaser for value or a creditor without notice unless the in-

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strument is acknowledged and recorded in the county in which the real property is located.

[Sections 5.43–5.60 reserved for expansion]

**SUBCHAPTER D. MARITAL PROPERTY LIABILITIES**

**§ 5.61. Rules of Marital Property Liability**

(a) A spouse's separate property is not subject to liabilities of the other spouse unless both spouses are liable by other rules of law.

(b) Unless both spouses are liable by other rules of law, the community property subject to a spouse's sole management, control, and disposition is not subject to:

(1) any liabilities that the other spouse incurred before marriage;

or

(2) any nontortious liabilities that the other spouse incurs during marriage.

(c) The community property subject to a spouse's sole or joint management, control, and disposition is subject to the liabilities incurred by him or her before or during marriage.

(d) All the community property is subject to tortious liability of either spouse incurred during marriage.

**§ 5.62. Order in Which Property is Subject to Execution**

(a) A judge may determine, as he deems just and equitable, the order in which particular separate or community property will be subject to execution and sale to satisfy a judgment, if the property subject to liability for a judgment includes any combination of:

(1) a spouse's separate property;

(2) community property subject to a spouse's sole management, control, and disposition;

(3) community property subject to the other spouse's sole management, control, and disposition; and

(4) community property subject to the spouses' joint management, control, and disposition.

(b) In determining the order in which particular property will be subject to execution and sale, the judge shall consider the facts surrounding the transaction or occurrence upon which the suit is based.

[Sections 5.63–5.80 reserved for expansion]

**SUBCHAPTER E. HOMESTEAD RIGHTS**

**§ 5.81. Sale, Conveyance, or Encumbrance of Homestead**

Whether the homestead is the separate property of either spouse or community property, neither spouse may sell, convey, or encumber it without the joinder of the other spouse except as provided in Section 5.82, 5.83, 5.84, or 5.85 of this code or by other rules of law.

**§ 5.82. Separate Homestead: Incompetent Spouse; Sale Without Joinder**

If the homestead is the separate property of a spouse and the other spouse has been judicially declared incompetent, the owner may sell, convey, or encumber it without the joinder of the other spouse.



**§ 5.83. Separate Homestead: Unusual Circumstances; Sale Without Joinder**

(a) If the homestead is the separate property of a spouse and the other spouse (1) is incompetent (whether judicially declared incompetent or not), (2) disappears and his or her location remains unknown to the owner, (3) permanently abandons the homestead and the owner, or (4) permanently abandons the homestead and the spouses are permanently separated, then not less than 60 days thereafter the owner may file a sworn petition giving a description of the property and stating the facts that make it desirable for the owner to sell, convey, or encumber the homestead without the joinder of the other spouse.

(b) The petition shall be filed in a district court of the county in which any portion of the property is located. Notice shall be issued and served in the manner provided in Subsection (c) or (d) of Section 5.25 of this code.

(c) After hearing the evidence, the court shall enter an order it deems just and equitable with respect to sale, conveyance, or encumbrance of the homestead.

**§ 5.84. Community Homestead: Incompetent Spouse; Sale Without Joinder**

If the homestead is the community property of the spouses and one spouse has been judicially declared incompetent, the competent spouse may sell, convey, or encumber the homestead without the joinder of the other spouse.

**§ 5.85. Community Homestead: Unusual Circumstances; Sale Without Joinder**

(a) If the homestead is the community property of the spouses and if (1) a spouse is incompetent (whether judicially declared incompetent or not), (2) a spouse disappears and his or her location remains unknown to the other spouse, (3) a spouse permanently abandons the homestead and the other spouse, or (4) a spouse permanently abandons the homestead and the spouses are permanently separated, then not less than 60 days thereafter the competent spouse, the remaining spouse, the abandoned spouse, or the spouse who has not abandoned the homestead in a case of permanent separation, who desires to sell, convey, or encumber the community homestead of the spouses, may file a sworn petition giving a description of the property and stating the facts that make it desirable for the petitioning spouse to sell, convey, or encumber the homestead without the joinder of the other spouse.

(b) The petition shall be filed in a district court of the county in which any portion of the property is located. Notice shall be issued and served in the manner provided in Subsection (c) or (d) of Section 5.25 of this code.

(c) After hearing the evidence, the court shall enter an order granting relief if it appears necessary or advisable, and on terms the court deems advisable.

(d) In the exercise of its equity powers, the court may impose any conditions and restrictions it deems necessary to protect the rights of the other spouse. The court may require a bond conditioned on faithful administration of the proceeds or may require payment of all or a portion of the proceeds to the registry of the court, to be disbursed in accordance with the court's further directions.

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**§ 5.86. Remedies and Powers Cumulative**

The remedies provided by Sections 5.83 and 5.85 of this code, and the powers of a spouse under Sections 5.82 and 5.84 of this code, are cumulative of the rights, powers, and remedies otherwise afforded the spouses by law.

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Sec. 2. Article 495, Penal Code of Texas, 1925, is amended to read as follows:

"Article 495. PUNISHMENT FOR INCEST. Persons who are forbidden to marry by Section 2.21 of the Family Code who intermarry or carnally know each other shall be confined in the penitentiary for not less than two years nor more than ten years."

Sec. 3. Article 5460, Revised Civil Statutes of Texas, 1925, as amended by Section 5, Chapter 309, Acts of the 60th Legislature, Regular Session, 1967, is amended to read as follows:

"Article 5460. LIEN ON HOMESTEAD. When material is furnished, labor performed, or improvements as defined in this title are made, or when erections or repairs are made upon homesteads, if the owner thereof is a married man or woman, then to fix and secure the lien upon the same it shall be necessary for the person or persons who furnish the material or perform the labor, before such material is furnished or such labor is performed, to make and enter into a contract in writing, setting forth the terms thereof, which shall be signed by both the husband and wife. And such contract shall be recorded in the office of the county clerk in the county where such homestead is situated, in a well bound book to be kept for that purpose. When such contract has been made and entered into by the husband and wife and the contractor or builder, and the same has been recorded, as heretofore provided, then the same shall inure to the benefit of any and all persons who shall furnish material or labor thereon for such contractor or builder."

Sec. 4. Section 17A, Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927, as added by Section 2, Chapter 543, Acts of the 59th Legislature, Regular Session, 1965 (Rule 50b, Article 4477, Vernon's Texas Civil Statutes), is amended by adding a Subsection (b-1) to read as follows:

"(b-1) After December 31, 1969, the county clerk of each county shall transmit to the Bureau of Vital Statistics, within 90 days after execution, a copy of each declaration of informal marriage executed under Section 1.92 of the Family Code. The Bureau shall incorporate the information in each declaration in the state-wide alphabetical index established under Subsection (b) of this section, and the information shall be treated as provided in Subsection (c) of this section."

Sec. 5. Title 61, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding an Article 3930a—1 to read as follows:

"Article 3930a—1. COUNTY CLERKS AND COUNTY RECORDERS—OTHER SERVICES. (1) In addition to the fees authorized and required by Article 3930 of this title, as amended, county clerks and county recorders are authorized and required to collect the fees specified by this article for services rendered by them to all persons, firms, corporations, legal entities, governmental agencies, and governmental representatives.

Unless otherwise specified, each fee shall be collected at the time the service is rendered.

"(2) A total fee of \$5 shall be collected for services rendered in connection with the execution of each declaration of informal marriage under Section 1.92 of the Family Code."

Sec. 6. The following laws are repealed:

(1) Articles 4602 through 4610 inclusive, 4613 through 4615 inclusive, 4617 through 4638 inclusive, 4640, 4641, 6632, and 6647, Revised Civil Statutes of Texas, 1925, as amended;

(2) Section 1, Chapter 114, Acts of the 41st Legislature, Regular Session, 1929 (Article 4604c, Vernon's Texas Civil Statutes); and Chapter 547, Acts of the 51st Legislature, Regular Session, 1949 (Article 4604d, Vernon's Texas Civil Statutes);

(3) Articles 404, 406, 492, 493, 496, and 497, Penal Code of Texas, 1925.

Sec. 7. Any other Act passed at the same session of the legislature prevails over this Act to the extent of any conflict.

Sec. 8. The Code Construction Act (Article 5429b—2, Vernon's Texas Civil Statutes) applies to the construction of the Family Code except to the extent that the context of a provision may otherwise require.

Sec. 9. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Sec. 10. This Act does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun, before its effective date.

Sec. 11. This Act takes effect January 1, 1970.

Sec. 12. The importance of this legislation and the crowded condition of the calendar in both houses create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the Rule is hereby suspended; and that this Act take effect and be in force from and after January 1, 1970, and it is so enacted.

Passed by the House on May 16, 1969, by a non-record vote; House concurred in Senate amendments on June 2, 1969, by a non-record vote; passed by the Senate, as amended, on May 31, 1969, by a viva-voce vote.

Approved May 14, 1969.

Effective January 1, 1970.

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